



DECISION

Number 57/PUU-VIII/2010

FOR THE SAKE OF JUSTICE UNDER GOD ALMIGHTY

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF INDONESIA

[1.1] Upon examining, hearing and deciding upon Constitutional cases at the first and final instance, passes a decision in the case of a petition of Law Number 2 of 2010 Concerning the Amendment of Law Number 47 of 2009 Regarding the National Budget of the 2010 Financial Year, against the Constitution of the Republic of Indonesia 1945, filed by:

[1.2] 1. **The Indonesian Human Rights Committee for Social Justice**

(IHCS), located at Jalan Mampang Prapatan XV Number 8A RT 003 RW 04 South Jakarta 12790, in this case represented by Gunawan, an Indonesian citizen, in his capacity as Secretary General of IHCS;

Hereinafter referred to as----- Applicant I;

2. **Community Initiatives for State Welfare and Development Alternatives (PRAKARSA)**,

located at Jalan Rawa Bambu I Block A Number 8-E RT 010 RW 06, Pasar Minggu District, South Jakarta 12520, in this case represented by **Purnama Adil Marata**, an Indonesian citizen, in his capacity as Interim Executive Director / Secretary of the Governing Body of PRAKARSA;

Hereinafter referred to as ----- Applicant II;

3. **The Indonesian Forum for Budget Transparency (FITRA)**,

located at Jalan Menteng Wadas Timur Number 101, South Jakarta 12970, in this case represented by **Yuna Farhan**, an Indonesian citizen, in her capacity as Secretary General of FITRA;

Hereinafter referred to as ----- Applicant III;

4. **The Initiative Association**, located at Bojong Asih, RT 006 RW 004, Babakan Tarogong Village, Bojongloa Kaler District, Bandung, in this case represented by **Dohny Setiawan**, an Indonesian citizen, in his capacity as Chairman of the Initiative Association;

Hereinafter referred to as ----- Applicant IV;

5. **The Pesantren and Community Development Association (P3M)**, located at Jalan Cililitan Kecil III Number 12 Kramatjati, East Jakarta, in this case represented by **Abdul Wahid**, an Indonesian citizen, in his capacity as Secretary of P3M;

Hereinafter referred to as ----- Applicant V;

6. **The Women's Association of Small Business (ASPPUK)**, located at Plot PTB-DKI, Jalan Ruyung Block A-19 Number 29 Pondok Kelapa, East Jakarta 13450, in this case represented by **Ramadhaniati**, an Indonesian citizen, in her capacity as National Executive Secretary of ASPPUK;

Hereinafter referred to as ----- Applicant VI;

By virtue of a Special Power of Attorney, dated August 16, 2010, power is granted to: 1) Ecoline Situmorang, S.H.; 2) Janses E. Sihaloho, S.H.; 3) Muhammad Zaimul Umam, S.H, M.H.; 4) M. Taufiqul Mujib, S.H.; 5) Henry David Oliver Sitorus, S.H.; 6) Ridwan Darmawan, S.H.; 7) Riando Tambunan, S.H.; 8) Anton Febrianto, S.H.; 9) B.P. Beni Dikty Sinaga, S.H.; 10) Priadi S.H.; and 11) Ah. Maftuchan, S.Hi.; all of whom are advocates and members of **the Advocacy Team of the 2010 APBNP Law**, having its address at Jalan Mampang Prapatan XV Number 8A RT 03 RW 04, Tegal Parang Village, South Jakarta; either together or individually to act for and on behalf of the endorser;

Hereinafter referred to as ----- **The Plaintiffs**

[1.4] Having read the plea of the Plaintiffs;

Having heard the testimonies of the Plaintiffs;

Having examined the evidence of the Plaintiffs;

2. Facts of the Case

[2.1] The Plaintiffs, in their petition dated 10 February, 2010, were registered

by the Registrar's Office of the Constitutional Court (hereinafter referred to as the Court Registrar) on February 16, 2010 under the Deed of Acceptance of Petition File No. 26/PAN.MK/2010, and registered with petition Number 12/PUU- VIII/2010 on March 1, 2010, which was amended and received by the Court Registry on 29 March 2010, and outlines the following matters:

[2.1] The Plaintiffs filed a petition on August 16, 2010, which was subsequently accepted and registered by the Registrar of the Constitutional Court (hereinafter the Court) on Monday, August 16, 2010 at 13:00 pm, under the Deed of Acceptance File Number 482/PAN.MK/2010 and Deed of Registration Number 483/PAN.MK/2010, and registered with petition Number 57/PUU-VIII/2010 on Wednesday, 29 September 2010 at 13:00 pm. This was amended and received by the Court Registry on October 27, 2010. The case outlined the following matters:

A. Preliminary Issues

The 1945 Constitution provides a message that the welfare of poor and neglected children is to be borne by the state, and the state guarantees the fulfillment of human rights including the right to a decent life, health, social security, and so forth. One of the country's main purposes is to improve the welfare of the citizens;

One of the instruments which can overcome these problems is the National Budget (at state level) and the Revenue and Expenditure Budget (at the provincial and reGENCY/city level). But, at least 10 years after reforms, the budget has not favoured the broader citizenry, and particularly the poor. Budget spending priorities have not been earmarked for the alleviation of poverty, the empowerment of poor citizens, or broader access for the poor population to rid themselves of the burden of poverty;

In the 2010 National Budget, for example, the poor are not reflected as being the subjects of development. In the statutory rules, the two key actors to the determination of planning the National Budget are the Government and the Parliament. Both of these large institutions are

expected to carry the mandate to strive for the National Budget to be favourable to lower-class dissidents, or 'pro-poor'. The Government is the drafter of the National Budget and manages its practical implementation. Such management encompasses what the design of the budget should be, and ensuring that it should address the real needs of society and organized by a mechanism that ensures that its implementation is not distorted. Parliament decides whether or not the National Budget is received and then the House of Representatives are expected to be more rigorous and critical to ensure the priority of activities and the numbers allocated are close to the interests of the poor. In referring to the functions of Parliament, especially the Budget Committee, there are several hypotheses as to why the 'noble defence' of the poor has not been maximized. Firstly, while the Parliament's mission is to work hard its support system is inadequate. Secondly, there has been no cooperation between the House of Representative and the institutions of civil society in budget discussions. If civil society were to be more involved, perhaps it could provide a temporary alternative of support and an alternative to the members of the Council, particularly those in the Commission and the Budget Committee. Third, the integration of features supporting the poor is still new to the preparation of the National Budget;

While the 1945 Constitution clearly states that the poor are subjects of the National Budget, they have so far been neglected in Law Number 2 of 2010. This issue involves the lack of accommodation within the budget for social security, health, and inequality in terms of the balance between the local and national budgets. In addition to this, the process of drafting the Law has itself been defective. The 1945 Constitution guarantees every person the right to live in prosperity and spirituality, the right to have a place to live, the right to live in a good and healthy environment and the right to receive medical care. The 1945 Constitution also guarantees every person the right to develop oneself fully as a dignified human being, including ensuring that the poor citizenry as well as neglected children are cared for by the State;

Law Number 2 of 2010 is contrary to Article 22A of the 1945 Constitution

which states that, "Further provisions regarding the procedures to establish laws shall be regulated by law". Also, the formal process or norm in Law Number 2 of 2010 appears to be inconsistent with several other policies relating to the economy and budget. In short, Law Number 2 of 2010 is convincingly proved to be contrary to the mandate of the Constitution which states that the entire national economic system shall be used for the maximum benefit of the people;

B. Authority of the Constitutional Court

The right to trial in the opinion of Dr. Sri Soemantri in her book "The Right to Judicial Review in Indonesia (1997)" is divided into two types, namely the right to formal judicial review and the right to material judicial review. The right to formal judicial review is "the authority to assess whether a legislative product, for example legislation, is manifested in ways (procedural) as specified/ stipulated in laws and regulations (whether applicable or not)" (page 6). Furthermore, Sri Soemantri interprets the right to material judicial review as being "the authority to investigate and then assess whether legislation is in accordance with regulations or contrary to a higher degree, as well as whether a particular authority (*verordenende Macht*) is entitled to regulation" (page 11);

The right to judicial review, both formal and material, is recognized in the legal system of Indonesia, as contained in the Constitution, which has been amended four times, namely in Article 24(2) of the 1945 Constitution which states, "The judicial power shall be implemented by a Supreme Court and judicial bodies underneath it in the form of public courts, religious affairs courts, military tribunals, and state administrative courts, and by a Constitutional Court". Regulation of the authority to conduct judicial review against the Constitution are contained in Article 24C of the 1945 Constitution and Article 10(1)(a) of Law Number 24 of 2003 Concerning the Constitutional Court, which reads, "*The Constitutional Court has the authority to hear at the first and final instance, whereby its decision shall be final, to test laws against the Constitution, rule on disputes of authority of state institutions whose*

authorities are granted by the Constitution, decide upon the dissolution of political parties, and decide upon disputes concerning the results of a general election";

Furthermore, Article 10(1)(a) of the Law Concerning the Constitutional Court declares the Constitutional Court the authority to adjudicate at the first and final instance, the decision of which is final; and to test the Law against the Constitution of the Republic of Indonesia 1945;

Article 1(3) of the Law on the Constitutional Court, states that "*A petition is a request made in writing to the Constitutional Court regarding the review of the law against the Constitution of the Republic of Indonesia 1945*";

In addition, Article 7 of Law Number 10 of 2004 Concerning the Regulation of the Formation of Legislation regulates the hierarchy of the position of the 1945 Constitution, which is of a higher position than that of ordinary laws. Therefore, any provision of an ordinary law must not conflict with the Constitution of the Republic of Indonesia 1945. If there are provisions in ordinary laws which are contrary to the provisions of the 1945 Constitution, then the provisions of the ordinary law can be reviewed through the review mechanism of the Law Concerning the Constitutional Court;

Based on the provisions of the Article it is clear that the Constitutional Court has the authority to perform judicial review, both materially and formally, that is, to review a law against the Constitution of the Republic of Indonesia 1945;

C. Constitutional Rights of the Plaintiffs

Pursuant to Article 51(1) of the Law of the Constitutional Court and its Explanation, those who may file a petition against the Constitution of 1945 are those who consider their rights and/or authorities granted by the 1945 Constitution to be impaired by the enactment of a law, namely:

Individual Indonesian citizens; customary law communities which are still alive and living in accordance with the development and principles of

the Unitary Republic of Indonesia as regulated by law; public or private legal entities; or state institutions;

The Explanation provision of Article 51(1) of the Law Concerning the Constitutional Court states that what is meant by "constitutional rights" are rights provided for in the Constitution of the Republic of Indonesia 1945;

The constitutional rights as embodied in the 1945 Constitution, among other things, includes the right to obtain legal certainty and the right to work as stipulated in Article 27(1) and (2) and Article 28D(1) and (2) of the 1945 Constitution;

Based on the above provisions, there are two requirements that must be met to examine whether the plaintiff has legal standing in a petition for judicial review of the law. The first requirement is the qualification to act as a Plaintiff as stipulated in Article 51(1) of the Law Concerning the Constitutional Court. The second requirement is that there must be harm to the Plaintiff arising as a result of the law (see Constitutional Court Decision Number 133/PUU-VII/2009);

The Plaintiffs here are private entities engaged, interested, and established on the basis of concern as to the provision of protection, social justice, law and human rights, which have legal status and have been established by notarial deed;

Even so, not all organizations can or could represent the general public interest; but the only organizations which have met the requirements stipulated by various Laws and jurisprudence, are namely:

"Legal entities, with Articles of Association which expressly mention the established goals of the organization; and routinely engage in activities which are mandated by the Articles of Association".

The Plaintiffs in this case consist of various non-governmental

organizations (private entities) known to have been fighting for human rights, as well as to struggle for a prosperous and just life for society, nation and state; especially in the area of the national budget, where it is reflected in the Articles of Association and daily activities of the Plaintiffs;

The Plaintiffs have obtained legal status as legal entities, as stated in the Deed. They are as follows:

1. The Indonesian Human Rights Committee for Social Justice (IHCS), as Applicant I

Applicant I has been harmed based on the Notarial, Ny. Nurul Muslimah Kurniati, SH, by Deed Number 16 dated February 16, 2008;

In Article 7 of the Deed, Petitioner I mentioned that the purpose of this organization was:

The organization is tasked to fight for a world order which is peaceful, just, and prosperous; Removing global injustice caused by the state and capital, a world free from poverty, hunger, war and slavery, and freedom from neo-colonialism and imperialism; At the national level is the creation of a democratic state that respects, complies with, and protects the human rights and social justice of its citizens. This organization serves to promote and defend human rights and social justice.

Furthermore, it is stated in Article 9 that the function of this Organization is:

To defend the victims of human rights violations through litigation and advocacy; To facilitate the victims of human rights violations to become human rights activists themselves; To advocate for public policy to create a state system which is democratic, and which respect, fulfills and protects human rights; To initiate the fulfillment of human rights, social justice, economic system reform, politics, law and security, armed violence and conflict resolution; (**Exhibit P-1**);

The existence of Law No. 2 of 2010 Concerning the Amendment to Law No. 47 of 2009 Regarding the National Budget for the 2010 Financial Year will perpetuate injustice and violations of human rights protected by law as a result of setting a National Budget which is unfair as well as unfavorable to the interests of the citizens of Indonesia. To this extent the objectives of the organization of Applicant I will be inhibited;

With the enactment of Law No. 2 of 2010 Concerning the Amendment to Law No. 47 of 2009 Regarding the National Budget for the 2010 Financial Year, Applicant I would have difficulty in realizing its goals of advocacy in the field of realization of social justice for the citizens of Indonesia;

2. Community Initiatives for State Welfare and Development Alternatives (PRAKARSA), as Applicant II

Applicant II has been harmed based on the Notarial, Nurul Larasati, SH, by Deed Number 3 dated August 31, 2004 and Deed Number 2 dated March 7, 2005;

In Article 3(2) of the Deed of Applicant II, it states that the purpose of the establishment of this organization is:

"The ultimate goal of PRAKARSA is to participate as well as build and realize an Indonesian community which is democratic, just, and prosperous through research and training as well as through increased leadership, ideas and aiding in the solving of problems of non-governmental organizations, for the benefit of government and society"

(Exhibit P-2);

The functions and the efforts of PRAKARSA as referred to in Article 4 of the Deed, are:

- a. As a support system for the creation of ideas and innovation among non-governmental organizations and Indonesian social movements;
- b. To support non-governmental organizations and Indonesian

citizen groups in obtaining social science training and skills, and encouraging them to think about experiences and good practices in innovation, as well as to formulate ideas regarding social change within Indonesia and overseas;

- c. To conduct research and training aimed at improving the capacity, expertise and advanced skills to the leadership and staff of NGOs in the field of policy and management;
- d. To prepare research results that is relevant to the efforts and the work of non governmental organizations;
- e. To provide networks of researchers from universities within Indonesia and abroad which are relevant to the research and action programs of non-governmental organizations;

Based on the aims of PRAKARSA, Applicant II has placed importance on advancing an application for judicial review, arguing that the Law No. 2 of 2010 Concerning the Amendment to Law No. 47 of 2009 Regarding the National Budget for the 2010 Financial Year is a form of state regulation which has failed to be favourable for the people. Hence, there is the potential to hinder the main purpose of PRAKARSA in participating in and building, as well as realizing, an Indonesian community which is democratic, just, and prosperous;

3. The Indonesian Forum for Budget Transparency (FITRA), as Applicant III

Applicant III has been harmed based on the Notarial, Henry Siregar, SH, by Deed Number 6 dated 20 September 2006;

The purpose of the establishment of the Indonesian Forum for Budget Transparency is stated in the Preamble to the Statute, which is:

"To ensure that a pro-community political budget is aligned with the principles of accountability and participation, and ensure that transparency is their first priority. On that basis, the Indonesian Forum for Budget Transparency (FITRA) was established in order to demand the fulfillment and involvement of the rights of the people in the entire

budgeting process, beginning from its preparation, discussion and evaluation, to its implementation. FITRA, together with the community, aims to build the transparency movement so that the creation of the national budget meets people's welfare and justice. FITRA's struggle over the national budget is devoted to the fulfillment of economic, social, cultural and political rights." (**Exhibit P-3**);

In Article 2 of FITRA's Constitution, it further states that the vision of FITRA is the "realization of popular sovereignty against the budget";

In Article 3 of FITRA's Constitution it also mentions that to make this happen FITRA's mission is:

1. To promote transparency and accountability in the planning, implementation and control of the national budget;
2. Fight for a national budget which is based and oriented to the needs of the people;
3. To become a reference for the discourse and budget transparency movement, both in and for Indonesia;

The nature and objectives of the establishment of FITRA as mentioned in Article 4 of its Constitution are:

- (1) The nature of FITRA as an organization is inclusive, pro-community, gender sensitive, and independent;
- (2) FITRA aims to realize social transformation towards a democratic order for the realization of popular sovereignty in the management of the sources of people's lives through advocacy of public budget transparency;

To achieve its vision, mission, nature as well as purpose, Article 5 of the Constitution of FITRA clarifies the strategy and activities of FITRA which include:

- (1) FITRA's mandate concerns advocacy of the National Budget;
- (2) FITRA activities include:
 - a. Community organizing;
 - b. Education;
 - c. Campaigns;
 - d. Research;

- e. Policy dialogue;
- f. Litigation;
- g. Consultation;
- h. Legal drafting;

Based on what is mentioned above, FITRA has placed importance on advancing an application for judicial review of Law No. 2 of 2010 Concerning the Amendment to Law No. 47 of 2009 Regarding the National Budget for the 2010 Financial Year, due to the enactment of the Law being of a discriminatory nature and being unjust, which is contrary to the objectives of the establishment of FITRA. The Law, in the economic opinion of Applicant III, is not qualified as a national budget which meets the welfare and justice of the people, both in terms of transparency and accountability in planning, and implementation and control. Also, according to Applicant III, the national budget in the Law is highly unfavourable to the needs of the people;

4. The Initiative Association, as Applicant IV

Applicant IV has been harmed based on the Notarial, Siti Murdiah Mubarik, SH by Deed Number 4, dated September 9, 2005;

On the basis of Article 4 of the Deed of Applicant IV, this Association has the sole purpose of:

- a. Increasing the quality of life for the people of Indonesia who are treated as marginal, the harmony of all people, accountability, gender sensitivity, and promoting the independence of people to be treated in accordance with what is necessary in the circumstances;
- b. The intention and purpose of provision (a) is achieved by:
 - Focussing upon human rights, gender, children, the environment, and related matters;
 - The principle of progression, which includes the continuous pursuit of achievements which are sustainable in strengthening local autonomous communities;

- The principle of accessibility, which includes the convenience of all parties in accessing the services the Association;
- To remain open to all parties in line with the intent and purpose of the Association;
- To execute activities in accordance with its competencies;

Furthermore, in Section 5 of the Constitution of Applicant IV, it is mentioned that to achieve its aims and objectives, the Association is to perform various business activities which are not in conflict with the law, operable legal regulations, and the intent as well as purpose of the Association, which include, among other things:

- a. To encourage public policy reform to improve the lives of marginalized communities;
- b. To encourage the strengthening of marginalized communities so that they can fight to increase their quality of life;
- c. To facilitate public advocacy and assist marginalized communities;
- d. To facilitate the development of a network with other strategic parties in line with the aims, objectives and activities of the Association (**Exhibit P-4**);

Due to the enactment of Law No. 2 of 2010 Concerning the Amendment to Law No. 47 of 2009 Regarding the National Budget for the 2010 Financial Year, Applicant IV has placed importance on advancing an application for judicial review, keeping in mind that the Law could potentially impede upon the very purpose of the Initiative Association, which is to "Improve the quality of life of marginalized Indonesians", as a result of the vagueness of the National Budget which is unfavourable to marginalized communities;

5. The Pesantren and Community Development Association (P3M), as Applicant V;

Applicant V has been harmed based on the Notarial, Nirmawati Marcia, SH, by Deed Number 3 dated July 15, 2003, and Deed Number 57 dated 16 November 2009. In Article 5 of the Articles of Association of Applicant V it is stated that the intent and purpose of

this organization is:

- To develop knowledge and learn the stance of Islam regarding education and community development;
- To increase the role of Islamic boarding schools (Pondok Pesantren) in the National development of Indonesia in general and community development in particular;
- To develop human resources and natural resources towards the realization of intelligence and well-being in community life, in order to achieve the happiness of the world for all eternity;
- To spread knowledge and consideration of the role of Islam and community participation in community development;

Based on the intent and purpose mentioned, P3M performs various business activities which are not in conflict with the law, any operable legal regulations, and are in sync with the intent as well as purpose of the Association, which include, among other things:

- The problems of assessment and research within Islamic education;
- The social, cultural, and economic organization of cooperation with other institutions or other organizations having similar aims and objectives and in line with the goals and purpose of this Organization;
- Other productive efforts in accordance with the intent and purpose of the Association and which can provide a strong foundation for the independence of the community (**Exhibit P-5**);

Due to the enactment of Law No. 2 of 2010 Concerning the Amendment to Law No. 47 of 2009 Regarding the National Budget for the 2010 Financial Year, Applicant V has placed importance on advancing an application for judicial review, keeping in mind that the Act could potentially impede upon the very purpose of the Pesantren and Community Development Association, namely, "*to increase the role of Islamic boarding schools (Pondok Pesantren) in the national development agenda of Indonesia generally, and community development in particular*", as a result of the vagueness of the National Budget which is unfavourable to marginalized communities;

6. . The Women's Association of Small Business (ASPPUK),
Applicant VI

Applicant VI has been harmed based on the Notarial, Lilawati, SH, by Deed Number 2 dated December 7, 2009. In Article 3 of the Articles of Association of Applicant VI it is stated that the purposes of this organization are:

1. To be a strong movement for women's small businesses, so they are able to fight for their rights and interests;
2. To strengthen the position and condition of women's small businesses in having access and control over their economic resources;
3. To strengthen the capacity of member NGOs to facilitate the movement promoting women's small businesses;
4. To be the founding of solidarity and cooperation among NGOs, women's small businesses, and other components of civil society to deal with other forms of inequality, especially gender inequality;

Furthermore, in Section 4 it is stated that to achieve their goals, ASPPUK's activities include:

1. Mentoring women's small businesses by members of the NGO;
2. Policy advocacy to fight for the rights and interests of women's small businesses;
3. To build and strengthen market linkages for women's small business products;
4. To improve the capacity of members of the NGO to advocate, network, and fund raise;

Based on the above vision, the institute conducts advocacy and mentoring of women of small businesses which have become victims of human rights violations, as well as in the case of the enactment of Law No. 2 of 2010 Concerning the Amendment to Law No. 47 of 2009 Regarding the National Budget for the 2010 Financial Year, which could potentially violate the rights of women who are mentored by Applicant VI. Applicant VI argues that this is because the Act fails to set a budget which reflects fairness, and which has reduced the

health budget, whereby women may be vulnerable in the event of a corresponding budget reduction of health insurance (**Exhibit P-6**);

Due to the enactment of Law No. 2 of 2010 Concerning the Amendment to Law No. 47 of 2009 Regarding the National Budget for the 2010 Financial Year, Applicant VI has placed importance on advancing an application for judicial review, keeping in mind that the Act could potentially impede upon the establishment of the purpose of the Association in "*strengthening the position and condition of women's small businesses in accessing and controlling their economic resources*", as a result of the vagueness of the National Budget which is unfavourable to marginalized communities;

D. Legal Facts and Analysis of the Plaintiffs

1. On April 3, 2010, the Government filed the Budget Amendment Bill of 2010 in Parliament;
2. The Government argued that the acceleration of the filing of the 2010 National Budget is due to the fact that; firstly, there were developments and significant changes in various macroeconomic indicators; and secondly, that the 2010 budget is a transitional National Budget to fill the void and keep the wheels of government moving;
3. From the 7 macro-economic assumptions which were used as a reason for changing the 2010 budget, only oil prices increased with a 12% deviation from 65 USD/barrel to 77 USD/barrel (**Exhibit P-7**);
4. Furthermore, the posture of the 2010 National Budget did not change significantly. Apart from increasing deficit, tax revenue and spending changes **in the Ministry are still below** the minimum standards required within budget reforms stipulated in the Memorandum of the Revised National Budget for the 2010 Financial Year (**Exhibit P-8**);
5. On May 3, 2010, a Plenary Session of the House passed the Bill on the Amendment of Law Number 47 of 2009 Concerning the National Budget for the 2010 Financial Year. However, the ratification of the Amendment Bill leaves a budget surplus of Rp 1.1 trillion, divided

equally amongst the 11 Commissions of the Parliament in partnership with the Ministry/Agency Commission respectively. The Budget Agency provided the deadline of May 15, 2010 or 8 days after the Plenary Session of the House on the ratification of the Budget Amendment Bill, to disclose complete details of expenditure by type designation, organization, functions, programs, and activities;

6. The Plaintiffs have evaluated this budget policy and believe that it fails to reflect the spirit of the Constitution of Indonesia;

Material Review

1. Contradiction between Law Number 2 of 2010 and Article 28D(1) of the 1945 Constitution

In Law Number 2 of 2010 after taking into account salary expenditure, the portion of money allocated to health in the 2010 National Budget, as outlined in the table below, is only 2.13% of the total National Budget of 2010. In addition, the portion of money allocated to health in 2010 National Budget is still far from adequate, with less than 1% of the nation's GDP. The Philippines has a per capita income which is lower than Indonesia's, yet it has allocated a health expenditure of 3% of the nation's GDP. The degree of health spending is based upon the 5 indicators of the Millennium Development Goals, namely: malnutrition; maternal mortality; child mortality; HIV AIDS; and infectious diseases, clean water and sanitation;

Table 2. Health Spending (National Budget Changes) 2010

NO.	DESCRIPTION	TOTAL (Rupiah)
1.	For the purposes of health (Amendment to the State Budget) 2010	19,801,500,000,000
2.	Distribution of Health equipment 2010	2,829,760,000,000
3.	Additional Health spending for DPIP (Fund for Strengthening Infrastructure and Regional Facilities) 2010	575,935,500,000

4.	Spending for DPDFPPD (Fund for Strengthening Fiscal Decentralisation and the Acceleration of Regional Development)	794,890,798,960
5.	Total expenditure for <u>health</u> in the 2010 Amended National Budget	24,002,086,298,960
6.	Total expenditure for <u>all sectors</u> in the 2010 Amended National Budget	1,126,146,476,312,000
7.	Percentage of Health Spending Within the Amended National Budget	2.13%

Database of the National Budget - 2010

* Data retrieved from the 2010 Database, page 10 (**Exhibit P-9**)

** Data retrieved from Article 2(2) of Regulation Number 175 of 2009 of the Minister for Finance) (**Exhibit P-10**)

*** Data retrieved from Handbill Number 224 of 2010, point 16 (**Exhibit P-11**)

**** Data retrieved from Handbill Number 224 of 2010, point 44 (**Exhibit P-12**)

***** Data retrieved from Article 2(2) of Regulation Number 118 of 2010 of the Minister for Finance) (**Exhibit P-13**)

***** Data retrieved from Regulation Number 118 of 2010 of the Minister for Finance) (**Exhibit P-14**)

With the total expenditure for health being 2.13%, it is much lower than the amount mandated by Article 171(1) of Law Number 36 of 2009 Concerning Health, which states that, "*Large government health budgets are to be allocated a minimum of 5% of budget revenues and expenditures excluding salary*";

The difference between the total amounts of expenditure for health allocated in Law Number 36 of 2009 Concerning Health, compared to Law Number 2 of 2010, has resulted in legal uncertainty;

Legal uncertainty which is detrimental to the public is clearly a breach of the Constitution of 1945, particularly Article 28D(1)

which expressly guarantees the right of every citizen to legal certainty;

Article 28D(1): *“Every person is entitled to recognition, security, protection, and fair legal certainty as well as equal treatment before the law”;*

2. Contradiction between Law Number 2 of 2010 and Article 23(1) of the 1945 Constitution

Article 23(1) of the 1945 Constitution mandates that the preparation of the National Budget should be for the overall prosperity of the people;

Principles of the overall prosperity of the people mean the people, who must be ensured prosperity in the creation of the budget, to the extent that the Budget must be prepared to ensure the greatest welfare to the people;

According to Hatta, the principle of public prosperity means:

“... Generally it can be said that the political economy of a country's prosperity aims for the implementation in the community of:

- 1. Full employment, the loss of unemployment;*
- 2. Standards of living which are always improving;*
- 3. Possible reductions in economic inequality by way of equal prosperity;*
- 4. Social justice ...”*

[1985, Developing Indonesia's Economy, Scholarly Speech collection (collection by Wangsa Widjaja and Meutia Farida Swasono), Inti Idayu Press, London];

The 2010 National Budget does not maximise the prosperity of the people, as can be seen from the following facts:

1. The budget allocation for health is 2.13%, and smaller than the budget allocation provided for in Article 171(1) of Law Number 36 of 2009 Concerning Health which requires minimum national budget expenditure for health to be 5%. It is also not

able to accommodate the need for public health services which require access to and affordability of quality health services. The consequences which emerge from the unfulfillment of ensuring the prosperity of the people in the health sector can be seen from a variety of cases such as the refusal against a poor community or patient trying to obtain health services as well as the high price of drugs which are relatively difficult to obtain;

2. Non-fulfillment of the principle of 'people's prosperity' can also be seen from the imbalance of allocation/budget setting, where the central government budget in the 2010 National Budget is used for routine benefits and for benefitting Officials, rather than being allocated to the needs of its people. From the total central government budget, Rp. 162.6 trillion was allocated for personnel expenditure, Rp. 19.5 trillion for travel expenses, and Rp. 153.6 trillion for debt interest and principal payments. That is, 40.7% of the budget is used for routine matters (basic data Revised 2010);
3. The amended National Budget is not able to provide for the welfare of the people, even though each year the amount of the budget has increased. In reality such increases do not impact on improving the Human Development Index of Indonesia. This is illustrated by a portrait of our budget which increased 120% in the year 2005 from Rp. 509.6 trillion to Rp. 1126 in the Draft Budget in 2011. However, the Human Development Index ranks Indonesia as further in decline. In 2006 Indonesia was ranked 107th, which slipped to 109th in 2007-2008, and in 2009 was ranked 111th. Even worse than the rank is that Palestine was ranked 110th and Sri Lanka was ranked 102nd; where both countries at the time were suffering from conflict. This indicated that the increase in the National Budget has not been fully effective in meeting the constitutional mandate for the greatest prosperity of the people of Indonesia with 65 years of Independence;

3. Contradiction between Law Number 2 of 2010 and Article 34(3) of the 1945 Constitution

The provision of adequate health facilities according to Article 171(1) of Law Number 36 of 2009 Concerning Health is a minimum of 5% of the overall budget, excluding salary. Non-fulfillment of the provisions contained in Article 171(1) of Law Number 36 of 2009 means the National Budget of 2010 does not provide adequate health care facilities as mandated in Article 34(3) of the 1945 Constitution. Hence, the provisions of Law Number 2 of 2010 concerning the Amendment to Law No. 47 of 2009 Concerning the National Budget is contrary to the Constitution as laid down in Article 34(3) of the Constitution, namely that the government is responsible for the provision of adequate health facilities;

The health budget has not met the 5% threshold mark as contained in Article 171(1) of Law Number 36 of 2009 Concerning Health, and has resulted in non-fulfillment of the provision of health care facilities contained in Article 1(7) of Law Number 36 of 2009 Concerning Health which mirrors the provision of Article 34(3) of the 1945 Constitution;

What is referred to as a "Health Care Facility" in Article 1(7), means namely "*a tool and/or place used for organizing the efforts of health care, relating to efforts which are promotive, preventive, curative and rehabilitative, and which are undertaken by the national Government, local governments, and / or community*";

Promotive health service is an activity and/or series of activities of health services which prioritize activities which promote health. The implementation of promotive health services can include, among other things, the advertising of community service in the health sector, for example in the field of the treatment of people with HIV, which is still minimal to the extent that discrimination against people living with HIV is still common in society;

Preventative health care is a precautionary activity against the

development of a health problem/illness. The indication of preventive health services, among other things, may be seen from the availability of condoms which are easily obtainable, the fact that immunization can be accessed for free, and/or is able to reach all levels of society;

Curative health services is an activity and/or series of treatment activities aimed at healing a disease, reducing the suffering caused by illness, disease control, or control of disability, so that the quality of life of the patient can be maintained as optimally as possible. Less optimal curative health services due to a lessened health budget in the National Budget can be seen from the number of poor people who cannot obtain health care in hospitals and/or from other health care providers;

Rehabilitative health care is the activity and/or series of activities to restore former patients back into the community so they can function once again as useful members of society, both for themselves and society as much as possible according to their ability. Rehabilitative health services are still low which can be witnessed from the lack of rehabilitation centres for former drug addicts, people with leprosy, HIV / AIDS, etc.;

The lack of funds directed to the health budget under Law Number 2 of 2010 which amounted to only 2:13% has resulted in poor health services for the community as mandated by Article 34(3) of the 1945 Constitution, to the extent that the constitutional right of citizens to obtain proper health care has been infringed by the State;

4. Contradiction between Law Number 2 of 2010 and Article 34(2) of the 1945 Constitution

Article 34(2) of the 1945 Constitution states, "*The state developed a system of social security for all citizens and to empower the weak and those unable to accord human dignity*";

The duty of the state as stated in the Preamble of the 1945 Constitution in the fourth paragraph, is designed to protect the

whole Indonesian nation and the entire homeland of Indonesia; promote general welfare; as well as the intellectual life of the nation so that the social security system shall be developed for the welfare of the nation;

Article 34(2) the 1945 Constitution orders the development of a system of social security for all citizens, in which case the relevant social security system has been specifically regulated by Law Number 40 of 2004 Concerning Social Security. With the presence of Law No. 40 of 2004, it is supposed that Law Number 2 of 2010 shall also make appropriate arrangements in line with Law Number 40 of 2004 Concerning Social Security by way of allocating the budget to develop a comprehensive social security system. But in fact, no single provision in Law Number 2 of 2010 sets a budget which relates to the social security system. Article 34(3) of the 1945 Constitution is a preamble to weigh in on the establishment of Law Number 40 of 2004 Concerning Social Security;

One of the implementations of the Social Security System through the provision of Article 1(5) of Law Number 40 of 2004 Concerning Social Security, reads, "*Tuition assistance are fees paid by the Government for the poor and those who qualify as recipients of social security*";

With no government regulation of obligations within Law Number 2 of 2010, as stated in Article 1(5) of Law Number 40 of 2004, it can be stated that Law Number 2 of 2010 has violated the provisions of Article 34(3) of the 1945 Constitution;

5. Contradiction between Law Number 2 of 2010 and Article 28H(1) of the 1945 Constitution

The State is required to provide the right to health care to all people as mandated in Article 28H(1) of the 1945 Constitution which reads as follows, "*Every person has the right to live in physical and spiritual prosperity, in their residence, and to obtain a good and healthy environment as well as receive medical care*";

Under Article 28H(1) of the 1945 Constitution, the State guarantees to the people that they will provide good quality health services. Article 171(1) of Law Number 36 of 2009 Concerning Health defines adequate health care as being at least 5% of the state budget, while Law Number 2 of 2010 has allocated only 2.13% for health services from the state budget. Thus, the State, based on Law Number 2 of 2010 has failed provide decent health care for its citizens;

6. Contradiction between Article 20(6) and (7) of Law Number 2 of 2010 and Article 18A(2) of the 1945 Constitution

DPIPD and DPF PPD are unfair by reason of not paying attention to the conditions and needs of the region concerned;

Article 20(6) and (7) of Law Number 2 of 2010 Concerning the 2010 Budget Amendment read, "The fund for strengthening fiscal decentralization and regional development acceleration, as referred to in paragraph (1)(b.5) is estimated at Rp 7.100.000.000.000,00 (seven trillion, one hundred billion rupiah)". Subsection (7) also reads, "The fund for infrastructure and strengthening of regional infrastructure (DPIPD) referred to in paragraph (1)(b.6) is estimated at Rp 5.500.000.000.000,00 (five trillion five hundred billion rupiah)";

The matters mentioned are contrary to the provisions contained in Article 18A(2) of the 1945 Constitution which clearly mandates, "*The relations between the central government and regional authorities in finances, public services, and the use of natural and other resources shall be regulated and administered with justice and equity according to law*";

The formulation of Article 20(6) and (7) of Law Number 2 of 2010 after being implemented concretely, is contrary to Article 18A(2) of the 1945 Constitution which expressly stipulates, "... *The relations between the central government and regional authorities in finances, public services, and the use of natural and other resources shall be regulated and administered with justice and*

equity according to law". While Article 20(6) of Law Number 2 of 2010 allocated funds amounting to Rp 7.1 trillion to fund Fiscal Decentralization and the Strengthening and Acceleration of Regional Development, in actual fact the boiling down to the actual allocation of these funds has been carried out unfairly and is contrary to Article 18A(2) of the 1945 Constitution which, among other things, stipulates as follows:

The relations between the central government and regional authorities in finances, public services, and the use of natural and other resources shall be regulated and administered with justice and equity according to law

The allocation of funds contained in Article 20(6) and (7) set out in the Regulation of the Minister for Finance Number 113 of 2010 and the Regulation of the Minister for Finance Number 118 of 2010, evidently both allocate funds to this area though not fairly according to the mandate of Article 18A(2) of the 1945 Constitution. For example, areas with a high fiscal capacity index and a low poverty index below the national average, such as the Berau District and the District of North Paser Penajam in East Kalimantan, get a higher allocation for DPIP than areas with a low fiscal capacity index and a poverty index which is above the national average, such as the South Central East District and Kupang in East Nusa Tenggara. Similarly, the allocation of funds for PPD DPF has been generalised, as illustrated in Table 1 below:

Table 1. Comparison of fund allocation for DPIP (Fund for Strengthening Infrastructure and Regional Facilities) and DPF PPD (Fund for Strengthening Fiscal Decentralisation and the Acceleration of Regional Development) between areas with High Fiscal Capacity and Low Poverty, and areas with Low Fiscal Capacity and High Poverty

No.	Region	Fiscal Index	Poverty Index	DPIP	DPF PPD
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1.	Berau District	2.999	0.886	17,335,000,000	4,931,137,019
2	North Penajam Paser District	2.935	0.698	24,175,000,000	0
3.	South Central East District	0.243	1.857	12,000,000,000	4,931,137,019
4.	Kupang District	0.271	1.460	4,835,000,000	0

Source: Data compiled from the 2010 Amended National Budget and Regulation of the Minister for Finance Number 113 and 118 of 2010

DPIPD and DPF PPD allocation are not in accordance with Law Number 33 of 2004 Concerning the Balance of Finance and Regions, and potentially create legal uncertainty;

In addition to fair implementation, central and local financial relations according to Article 18A(2) of the 1945 Constitution should also be in line with legislation. The provisions referred to in this Article have been defined in Law Number 33 of 2004 Concerning Balance Between Finance and Regional Allocation. In this law, such a balance embraces the principle of decentralization, deconcentration and task assistance. The framework of regional decentralized fiscal balance is provided in the form of General Allocation Funds (DAU), Funds for Yield, and Special Allocation Funds;

Pursuant to Law Number 33 of 2004, the balance of such funds in the form of PPD DPIPD and DPF, as stated in Article 20(6) and (7) of the Law Concerning the Amendment of the State Budget 2010, have been totally ignored. Thus, Article 20(6) and (7) of the Law Concerning the Amendment of the State Budget 2010 is not in accordance with laws and regulations. Hence, it is contrary to Article 18A(2) of the 1945 Constitution;

E. Conclusion

From what has been described above it can be concluded that Law Number 2 of 2010 Concerning the Amendment of Law Number 47 of 2009 Regarding the National Budget of the 2010 Financial Year is materially defective, resulting in Law Number 2 of 2010 Concerning the

Amendment of Law Number 47 of 2009 Regarding the National Budget of the 2010 Financial Year being contrary to the 1945 Constitution. Materially, Law Number 2 of 2010 Concerning the Amendment of Law Number 47 of 2009 Regarding the National Budget of the 2010 Financial Year violates the provisions of Article 28D(1), Article 23(1), Article 34(3) and (2), Article 28H(1), and Article 18A(2) of the 1945 Constitution. Therefore, the Constitutional Court grants the petition of the Plaintiffs as described in the petition;

F. *Petitum*

Based on the above, there is an appeal to the Constitutional Court to examine and decide upon the petition of this case as follows:

1. To accept the petition and grant it in its entirety;
2. To declare that Law Number 2 of 2010 Concerning the Amendment of Law Number 47 of 2009 Regarding the National Budget of the 2010 Financial Year is contrary to:
 - a) Article 28D(1) of the 1945 Constitution;
 - b) Article 28H(1) of the 1945 Constitution;
 - c) Article 23(1) of the 1945 Constitution;
 - d) Article 34(2) and (3) of the 1945 Constitution;
 - e) Article 18A(2) of the 1945 Constitution;
3. To declare that Law Number 2 of 2010 Concerning the Amendment of Law Number 47 of 2009 Regarding the National Budget of the 2010 Financial Year is thus invalid and of no binding legal force;
4. To order the proper promulgation of this decision in the Gazette of the Republic of Indonesia that is binding;

[2.2] In support of their arguments, the Plaintiffs filed Exhibit letters/tools marked as Exhibit P-1 through to Exhibit P-24, as follows:

1. Exhibit P-1 : A photocopy of the Constitution of the Republic of Indonesia 1945;

2. Exhibit P-2 : A photocopy of Law Number 2 of 2010 Concerning the Amendment of Law Number 47 of 2009 Regarding the National Budget of the 2010 Financial Year;
3. Exhibit P-3 : A photocopy of the Letter of Appointment of Applicant I which gave authority to act for and on behalf of the institution which was represented in the Decree of the Chairman of the Executive Committee of the Indonesian Human Rights Committee for Social Justice, number 12/Kep/Ketua/IHCS/IX/2009 Concerning the Appointment of Saudara Gunawan as Secretary General;
4. Exhibit P-4 : A photocopy of the Letter of Appointment of Applicant II, which gave authority to act for and on behalf of the institution which was represented in Certificate Number 005/PRA/REFR/VIII/2010;
5. Exhibit P-5 : A photocopy of Letter of Appointment of Applicant III, which gave authority to act for and on behalf of the name of the institution it represents;
6. Exhibit P-6 : A photocopy of Letter of Appointment of Applicant IV, which gave authority to act for and on behalf of the name of the institution it represents;
7. Exhibit P-7 : A photocopy of Letter of Appointment of Applicant V, which gave authority to act for and on behalf of the name of the institution it represents
8. Exhibit P-8 : A photocopy of Letter of Appointment of Applicant VI, which gave authority to act for and on behalf of the name of the institution it represents
9. Exhibit P-9 : A Photocopy of the Power of Attorney of Applicant I-VI to the Attorney to apply for judicial review of Law Number 2 of 2010 Concerning the Amendment of Law Number 47 of 2009 Regarding the National Budget of the 2010 Financial Year against the 1945 Constitution;

10. Exhibit P-10: A photocopy of the Charter of the Indonesian Human Rights Committee for Social Justice (IHCS);
11. Exhibit P-11: A photocopy of the Charter of Community Initiatives for State Welfare and Development Alternatives (PRAKARSA);
12. Exhibit P-12: A photocopy of the Charter of the Indonesian Forum for Budget Transparency (FITRA);
13. Exhibit P-13: A photocopy of the Charter of the Initiative Association;
14. Exhibit P-14: A photocopy of the Charter of The Pesantren and Community Development Association (P3M);
15. Exhibit P-15: A photocopy of the Charter of the Women's Association of Small Business (ASPPUK);
16. Exhibit P-16: A photocopy of a description of the reasons for the Revised Budget Changes in the opinion of Dr. Harry Azhar Aziz, M.A.;
17. Exhibit P-17: A photocopy of the Revised Financial Notes of the State Budget 2010 pages 1-9;
18. Exhibit P-18: A photocopy of the Health Expenditure Table of the 2010 National budget; Rp 18,001,800,000,000;
19. Exhibit P-19: A photocopy of the Health Expenditure Table of the 2010 National Budget for the Distribution of Health Equipment;
20. Exhibit P-20: A photocopy of the Health Expenditure Table for the 2010 National Budget for Amendments to Expenditure of the Department of Health;
21. Exhibit P-21: A photocopy of the Health Expenditure Table for the 2010 National Budget for Additional Expenditure for BKKBN 2010;
22. Exhibit P-22: A photocopy of the Health Expenditure Table for the 2010 National Budget for DPIP (Fund for Strengthening Infrastructure and Regional Facilities) 2010;
23. Exhibit P-23: A photocopy of the Health Expenditure Table for the

2010 National Budget for DPDF PPD (Fund for Strengthening Fiscal Decentralisation and the Acceleration of Regional Development);

24. Exhibit P-24: A photocopy of the Table of Comparison of fund allocation for DPIP (Fund for Strengthening Infrastructure and Regional Facilities) and DPF PPD (Fund for Strengthening Fiscal Decentralisation and the Acceleration of Regional Development) between areas with High Fiscal Capacity and Low Poverty, and areas with Low Fiscal Capacity and High Poverty

[2.3] For the purposes of shortening the commentary in this decision, everything which has occurred in the hearing has been sufficiently designated in the official report which remains an integral part of this decision;

3. LEGAL CONSIDERATIONS

[3.1] The purpose and objective of the petition of the Plaintiffs is to review the constitutionality of Law Number 2 of 2010 Concerning the Amendment of Law Number 47 of 2009 Regarding the National Budget of the 2010 Financial Year (State Gazette of the Republic of Indonesia of 2010 Number 69, Republic of Indonesia Number 5132, hereinafter referred to as Act 2/2010); against Article 18A(2), Article 23(1), Article 28D(1), Article 28H(1), Article 34(2) and (3) of the Constitution of the Republic of Indonesia 1945;

[3.2] Before considering the principal petition, the Constitutional Court (hereinafter the Court) shall first consider the authority of the Court to examine, hear and decide upon the petition;

Authority of the Court

[3.3] Based on Article 24C(1) of the 1945 Constitution, Article 10(1)(a) of Law Number 24 of 2003 Concerning the Constitutional Court (State Gazette of the Republic of Indonesia of 2003 Number 98, Additional State Gazette of the Republic of Indonesia Number 4316, hereinafter referred to as the Constitutional Court Law) and Article 29(1)(a) of Law Number 48 of 2009 Concerning Judicial Power (State Gazette of the Republic of Indonesia of

2009 Number 157, Additional State Gazette of the Republic of Indonesia Number 5076, hereinafter referred to as Law 48/2009), the Constitutional Court has the authority to hear cases at the first and final instance, the decision of which shall be final, and to conduct judicial review of laws against the Constitution;

[3.4] The Plaintiff's petition concerns judicial review of Law Number 2 of 2010 Concerning the Amendment of Law Number 47 of 2009 Regarding the National Budget of the 2010 Financial Year, and the Court has the authority to examine, hear and decide upon this petition;

[3.5] The Court implemented the First Session of the case on October 13, 2010 with a preliminary agenda for hearing the petition of the Plaintiffs. In this Session, the Court has undertaken the obligation of providing counsel/ guidance on the petition filed by the Plaintiffs. Furthermore, the Court implemented Session II on 11 November 2010 with the agenda of listening to the explanation of the amended petition by the Plaintiffs;

[3.6] On 19 November 2010 or 5 working days after the Court conducted Session II regarding the case, Law Number 10 of 2010 Concerning the State Budget for the 2011 Financial Year was approved (State Gazette of the Republic of Indonesia of 2010 Number 126, supplemented by document of the Republic of Indonesia Number 5167, hereinafter referred to as Law 10/2010). In Article 40 of Law 10/2010 it was declared that, "*This Law comes into force on January 1, 2011*";

[3.7] Based on the above, Law Number 2 of 2010 Concerning the Amendment of Law Number 47 of 2009 Regarding the National Budget of the 2010 Financial Year, being the object of the petition of the Plaintiffs is no longer valid and has no power from January 1, 2011;

[3.8] Considering that the object of the petition as contemplated in paragraph **[3.7]** above does not apply and no longer has holding capacity, the legal standing and the main petition of the Plaintiffs shall not be considered further;

4. CONCLUSION

Based on consideration of the facts and law, the Court decides:

- [4.1]** The Court has the authority to examine, hear and decide upon the petition;
- [4.2]** The petition of the Plaintiffs amounts to nothing because of the enactment of a new law;
- [4.3]** The legal standing of the Plaintiffs and principal application have not been considered;

Based on the Constitution of the Republic of Indonesia 1945 and the remembrance of Law Number 24 of 2003 Concerning the Constitutional Court (State Gazette of the Republic of Indonesia of 2003 No. 98, Additional State Gazette of the Republic of Indonesia No. 4316);

5. DECISION,

Decides,

The Plaintiff's petition cannot be accepted.

Thus it was decided in a Consultative Meeting which was attended by 8 Constitutional Justices, namely Moh. Mahfud MD, as Chairman and concurrent Members, Achmad Sodiki, Harjono, Muhammad Alim, Maria Farida Indrati, Ahmad Fadlil Sumadi, Hamdan Zoelva, and M. Akil Mochtar, on Wednesday 34rd February 2011, and was pronounced in the Plenary Session of the Constitutional Court open for public on Monday, 28th February 2011 by 7 Constitutional Court Justices, namely Moh. Mahfud MD, as Chairman and concurrent Members, Sodiki Ahmad, Muhammad Alim, Maria Farida Indrati, Ahmad Fadlil Sumadi, Hamdan Zoelva, and M. Akil Mochtar, assisted by Pan Mohamad Faiz as Substitute Registrar, attended by the Plaintiffs and their attorneys, the House of Representatives or its representative, and the Government or its representative.

CHIEF JUSTICE

Moh. Mahfud MD

JUSTICES

Achmad Sodiki

**Muhammad
Alim**

Maria Farida Indrati

Ahmad Fadlil Sumadi

Hamdan Zoelva

M. Akil Mochtar

SUBSTITUTE REGISTRAR,

Pan Mohammad Faiz